

AMENDED IN ASSEMBLY APRIL 4, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2967**

**Introduced by Assembly Member Wright**

February 25, 2002

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An act to ~~add Section 94960.5 to amend Sections 94931, 94950, 94952, 94955, 94957, 94965, 94975, 94980, 94995 of, and to add Section 94960.5 to,~~ the Education Code, relating to private postsecondary and vocational institutions.

LEGISLATIVE COUNSEL'S DIGEST

AB 2967, as amended, Wright. Bureau for Private Postsecondary and Vocational Education: ~~complaints.~~

~~The~~

(1) *The existing Private Postsecondary and Vocational Education Reform Act of 1989 sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs, which succeeded to the rights and functions of the former Council for Private Postsecondary and Vocational Education. The bureau, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act, which establishes administrative and judicial procedures for the bureau to follow in carrying out these duties. Existing provisions of the act require that, if action is brought against an institution, notice of the action must be served upon the institution, and if the institution requests*

*a hearing, that the hearing be held within 10 days of the bureau receiving the request.*

*This bill would require that the hearing be held within 30 days of the bureau receiving the request. This bill would make additional technical and conforming changes to delete references to the former council.*

(2) Existing law requires the bureau to investigate complaints from any person claiming damage as a result of any act or practice by a postsecondary or vocational educational institution or its agent, or both, that is a violation of the act and requires the bureau to adopt regulations that prescribe procedures for complaint handling and complaint disclosure. The bureau is required to report evidence of violations to the Attorney General and is authorized to commence an action to revoke an institution's approval to operate. The bureau is required to make an annual report to the Legislature summarizing its activities during the previous fiscal year.

This bill would require the bureau to include, in its annual report to the Legislature, a statistical summary of complaints filed with the bureau, the bureau's disposition of those complaints and the bureau's enforcement actions relative to those complaints.

(3) *Under existing law, institutions may register with the bureau to offer intensive English language programs, short-term career training programs, short-term seminar training programs, programs offered to assist students to prepare for a licensure examination, and continuing education programs. To register, institutions must file a registration form, containing specified information, with the bureau for public disclosure. Continuing education programs are exempt from these registration requirements.*

*This bill would authorize the bureau to require that registered institutions, at least every 3 years following the initial registration, verify all or a portion of the information required to accompany a registration form. The bill would make additional technical and conforming changes.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 94931 of the Education Code is*  
2 *amended to read:*



1 94931. (a) No private postsecondary educational institution,  
2 except those offering degrees and approved under Article 8  
3 (commencing with Section 94900) or offering vocational and  
4 nondegree granting programs and approved under Article 9  
5 (commencing with Section 94915), or those that are exempt from  
6 this chapter, may offer educational services or programs unless the  
7 institution has been registered by the bureau as meeting the  
8 requirements of this section.

9 (b) An institution approved to offer degrees under Article 8  
10 (commencing with Section 94900) or approved to offer vocational  
11 and nondegree granting programs under Article 9 (commencing  
12 with Section 94915) may offer registered programs without  
13 affecting its status under either of those articles so long as the  
14 registered program is disclosed in its approval to operate  
15 application or the institution completes a registration application  
16 and receives specific authorization for the program, maintains  
17 compliance for all registered programs in conformity with this  
18 article, and maintains a set of student records for registered  
19 programs separate from its approved programs. Any registered  
20 institution that offers an educational program not specified in  
21 subdivision (c) or not otherwise exempt from this chapter shall be  
22 approved under Article 8 (commencing with Section 94900) or  
23 Article 9 (commencing with Section 94915) and shall comply with  
24 this chapter.

25 (c) Except as otherwise provided in this article, this chapter  
26 does not apply to an educational service that qualifies for  
27 registration status and that complies with this article. The  
28 educational services that qualify for registration status are limited  
29 to:

30 (1) An educational service, as defined in Section 94733, that is  
31 offered to provide an intensive English language program.

32 (2) An educational service, as defined in Section 94742.1, that  
33 is offered to provide short-term career training.

34 (3) An educational service, as defined in Section 94742.2, that  
35 is offered to provide short-term seminar training.

36 (4) An educational service that is offered to assist students to  
37 prepare for an examination for licensure, except as provided in  
38 Section 94787.

39 (5) An educational service that consists of continuing  
40 education not otherwise exempt from this chapter.

(d) An institution that qualifies under any of paragraphs (1) to (4), inclusive, of subdivision (c) shall complete a registration form provided by the bureau, including a signed declaration by the chief executive officer of the institution under penalty of perjury, and provide all of the following information for public disclosure:

(1) The owner's legal name, headquarters address, and the name of an agent for the service of process within California.

(2) All names, whether real or fictitious, under which the owner is doing and will do business.

(3) The names and addresses of the principal officers of the institution.

(4) A list of all California locations at which the institution operates, its offerings, and, if previously registered, the number of students enrolled in California during the preceding year.

(5) A copy of the registration form or agreement that enrolls the student in the educational service that contains all of the following:

(A) The name and address of the location where instruction will be provided.

(B) The title of the educational program.

(C) The total amount the student is obligated to pay for the educational service.

(D) A clear and conspicuous statement that the enrollment form or agreement is a legally binding instrument when signed by the student and accepted by the institution.

(E) The refund policy developed by the institution unless this article specifies a different refund policy.

(F) Unless this article specifies that the institution is required to participate in the Student Tuition Recovery Fund, a statement that the institution does not participate in that fund.

(G) In 10-point boldface print or larger, the following statement: "Any questions or problems concerning this school that have not been satisfactorily answered or resolved by the school should be directed to the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs, (insert city, address, CA ZIP, and telephone number)."

(H) Schools approved under paragraph (1) of subdivision (c) of Section 94931 shall also include with the statement required by subparagraph (G) information referring the student to a consulate of his or her country and the United States Immigration and Naturalization Service.

1 (6) A brochure or catalog and a sample advertisement used to  
2 promote the educational service.

3 (7) A copy of its certificate of completion.

4 (8) If the educational service offers short-term career training,  
5 the institution shall comply with the requirements of Sections  
6 94804 and 94806.

7 (9) If the institution assists students in obtaining financing from  
8 a third party for the cost of the educational services at the  
9 institution, a copy of the contract or finance agreement reflecting  
10 that financing.

11 (e) The bureau shall establish the initial registration fee and the  
12 annual fee to be paid by institutions registered under this article.  
13 No institution shall be registered pursuant to this article unless it  
14 has paid the appropriate fees required by the bureau. Upon receipt  
15 of an institution's initial application for registration for a program,  
16 the bureau may conduct a site visit pursuant to subdivision (c) of  
17 Section 94915.

18 (f) For the purposes of communication with other state  
19 agencies, any organization or individual registered to offer  
20 short-term seminar training may state that they are "authorized"  
21 by the State of California.

22 (g) (1) Except as provided by subdivision (f), any institution  
23 registered pursuant to this article shall be restricted to stating that  
24 their training is "registered" with the State of California and is  
25 prohibited from using the words "approval," "approved,"  
26 "approval to operate," "approved to operate," "authorized,"  
27 "licensed," or "licensed to operate."

28 ~~The~~

29 (2) *The* institution shall place the following statement in all  
30 brochures, catalogues, enrollment agreements, and registration  
31 forms, in a conspicuous location in at least 12-point bold faced  
32 type:

33 "We are registered with the State of California. Registration  
34 means we have met certain minimum standards imposed by the  
35 state for registered schools on the basis of our written application  
36 to the state. Registration does not mean we have met all of the more  
37 extensive standards required by the state for schools that are  
38 approved to operate or licensed or that the state has verified the  
39 information we submitted with our registration form."

(h) *The bureau may require, at least every three years following the initial registration date, that a registered institution verify all or part of the information required to be provided with the registration form under subdivision (d).*

(i) Sections 94812 and 94818, Sections 94822 to 94825, inclusive, and Sections 94829 to 94838, inclusive, and Sections 94841 and 94846 shall apply to any institution registered pursuant to this article.

~~(i)~~

(j) *Article 1 (commencing with Section 94700), Article 2 (commencing with Section 94710), Article 3 (commencing with Section 94750), Article 3.5 (commencing with Section 94760), Article 4 (commencing with Section 94770), and Article 13 (commencing with Section 94950) shall apply to any institution registered pursuant to this article.*

*SEC. 2. Section 94950 of the Education Code is amended to read:*

94950. (a) The procedures set forth in Section 94965 or, alternatively, in Section 94975, govern the following types of administrative actions:

(1) Denial of an application for an approval or renewal of an approval.

(2) Suspension or revocation of an existing approval.

(3) Appeals of conditional approvals.

(b) In lieu of the procedures set forth in Section 94965 or 94975, an institution may voluntarily elect to utilize the procedures set forth in Section 94980 if it appeals a conditional approval by the ~~council~~ bureau.

(c) The procedures set forth in Section 94970 govern emergency suspensions of an institution's approval to operate initiated by the ~~council~~ bureau.

(d) Sections 94952 and 94955 authorize the ~~council~~ bureau and the Attorney General to seek various forms of judicial relief in order to enforce this chapter.

(e) Section 94960 governs actions based on student complaints.

(f) Section 94985 authorizes civil remedies for individual students in addition to those available under other provisions of law.

(g) Procedures established pursuant to regulations adopted by the ~~council~~ bureau shall govern the following types of administrative appeals:

(1) Probationary actions.

(2) Decisions by the ~~council~~ bureau denying an institution's claim for an exemption or exclusion from this chapter or any provision thereof.

SEC. 3. Section 94952 of the Education Code is amended to read:

94952. (a) The Attorney General, or any district attorney, or city attorney, may make investigations as may be necessary to carry out this chapter, including, but not *necessarily* limited to, investigations of complaints. The ~~council~~ bureau may jointly bring actions as necessary to enforce this chapter, including, but not *necessarily* limited to, civil actions for injunctive relief. In actions brought pursuant to this subdivision, the ~~council~~ bureau shall be represented by the Attorney General.

(b) The Attorney General shall represent the ~~council~~ bureau in the following administrative proceedings arising under this chapter:

(1) Suspension or revocation of an institution's approval.

(2) Denial of an institution's application for approval.

(3) An appeal of a conditional approval to operate issued following a review of an institution's application for approval.

(c) Nothing in this section or this chapter shall preclude the Attorney General, or any district attorney or city attorney, from any of the following:

(1) Bringing any action on behalf of the people as he or she is empowered by law to bring, including, but not *necessarily* limited to, actions based upon alleged violations of Chapter 5 (commencing with Section 17200) of Part 2, and Chapter 1 (commencing with Section 17500) of Part 3, of Division 7 of the Business and Professions Code.

(2) Conducting investigations necessary to determine whether there have been violations of law specified in paragraph (1).

(3) Conducting any investigations that he or she is authorized to conduct, including, but not *necessarily* limited to, investigations authorized under Section 11180 of the Government Code.



(4) In the case of the Attorney General, delegating his or her representation authority under subdivision (b) to staff attorneys of the ~~council~~ bureau.

(5) Entering into an agreement or understanding with the ~~council~~ bureau with respect to representation in any judicial or administrative proceeding not expressly enumerated herein.

SEC. 4. Section 94955 of the Education Code is amended to read:

94955. (a) The ~~council~~ bureau may bring an action for equitable relief for any violation of this chapter. The equitable relief may include restitution, a temporary restraining order, the appointment of a receiver, and a preliminary or permanent injunction. The action may be brought in the county in which the defendant resides or in which any violation has occurred or may occur.

(b) The remedies provided in this section supplement, and do not supplant, the remedies and penalties under other provisions of law.

(c) In actions brought pursuant to this section, the ~~council~~ bureau shall be represented by the Attorney General.

SEC. 5. Section 94957 of the Education Code is amended to read:

94957. (a) In addition to or in lieu of any other remedy or penalty, the ~~council~~ bureau may issue a citation to an institution for committing any violation of this chapter or regulation adopted under this chapter.

(b) The citation may contain an order of abatement or the assessment of an administrative fine. The administrative fine may not exceed two thousand five hundred dollars (\$2,500) for each violation. The ~~council~~ bureau shall base its assessment of the administrative fine on the nature and seriousness of the violation, the persistence of the violation, the good faith of the institution, the history of previous violations, and the purposes of this chapter.

(c) The citation shall be in writing and shall describe the nature of the violation and the specific provision of law determined to have been violated. The citation shall inform the institution of its right to request a hearing in writing within 15 days of the date that the citation was issued. If a hearing is not requested, payment of the administrative fine shall not constitute an admission of the violation charged. If a hearing is requested, the ~~council~~ bureau



1 shall provide a hearing as described in Section 94965, 94975, or  
2 94980. Payment of the administrative fine is due 15 days after the  
3 citation was issued if a hearing is not requested, or when a final  
4 order is entered if a hearing is requested. The ~~council~~ bureau may  
5 enforce the administrative fine as if it were a money judgment  
6 pursuant to Title 9 (commencing with Section 680.10) of Part 2 of  
7 the Code of Civil Procedure.

8 (d) All administrative fines shall be deposited in the Private  
9 Postsecondary and Vocational Education Administration Fund.

10 *SEC. 6.* Section 94960.5 is added to the Education Code, to  
11 read:

12 94960.5. The bureau shall include in its annual report to the  
13 Legislature made pursuant to Section 94995, a statistical summary  
14 of complaints filed pursuant to Section 94960, that includes, but  
15 is not *necessarily* limited to, all of the following:

16 (a) The number of complaints filed.

17 (b) The nature of the complaint, by appropriate categories.

18 (c) The disposition of the complaints.

19 (d) The actions taken by the bureau, under subdivision (c) of  
20 Section 94960, to enforce a prevailing complaint.

21 *SEC. 7.* Section 94965 of the Education Code is amended to  
22 read:

23 94965. (a) Proceedings in connection with the denial of an  
24 application to operate, the grant of a conditional approval to  
25 operate, or the revocation of an approval to operate shall be  
26 conducted in accordance with Chapter 5 (commencing with  
27 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
28 Code, and the ~~council~~ bureau shall have all of the powers granted  
29 in that chapter. Any action by the ~~council~~ bureau to place an  
30 institution on probation shall be subject to appeal ~~to the full~~  
31 ~~council~~, and the ~~council~~ bureau shall establish procedures that  
32 provide the institution with adequate notice and an opportunity to  
33 be heard and to present evidence as to why the action  
34 recommended by staff or by a visiting committee shall not be  
35 taken.

36 (b) Upon taking any action to suspend or revoke an institution's  
37 approval to operate, or to deny an application for renewal of an  
38 approval to operate, the ~~council~~ bureau shall provide written  
39 notice to the Student Aid Commission, the United States

1 Department of Education, and to any appropriate accrediting  
2 association.

3 *SEC. 8. Section 94975 of the Education Code is amended to*  
4 *read:*

5 94975. (a) This section establishes the procedure for notice  
6 and hearing required under this chapter and, except as provided in  
7 Section 94970, may be used in lieu of other notice or hearing  
8 requirements provided in this chapter.

9 (b) If notice of administrative action is required by this chapter,  
10 ~~the council~~ *bureau* shall serve notice stating the following:

11 (1) The action, including the penalties and administrative  
12 sanctions sought.

13 (2) The grounds for the action with sufficient particularity to  
14 give notice of the transactions, occurrences, violations, or other  
15 matters on which the action is based.

16 (3) The right to a hearing and the time period within which the  
17 party subject to the notice may request a hearing in writing. The  
18 time period shall not be less than 15 days after service of the notice  
19 unless a longer period is provided by statute.

20 (4) The right to be present at the hearing, to be represented by  
21 counsel, to cross-examine witnesses, and to present evidence.

22 (5) That, if the party subject to the notice does not request a  
23 hearing in writing within the time period expressed in the notice,  
24 he or she will waive or forfeit his or her right to an administrative  
25 hearing and the action will become final.

26 (c) If a party subject to a notice provided pursuant to  
27 subdivision (b) requests a hearing in writing within the time period  
28 specified in subparagraph (3) of paragraph (b), then within ~~10~~ 30  
29 days of receiving this request, ~~the council~~ *bureau* shall schedule  
30 a hearing. The hearing shall be held in a location determined  
31 pursuant to Section 11508 of the Government Code. The ~~council~~  
32 *bureau* shall serve reasonable notice of the time and place for the  
33 hearing at least 10 days before the hearing. The ~~council~~ *bureau*  
34 may continue the date of the hearing upon a showing of good  
35 cause.

36 (d) (1) Any party, including the ~~council~~ *bureau*, may submit  
37 a written request to any other party before the hearing to obtain the  
38 names and addresses of any person who has personal knowledge,  
39 or who the party receiving the request claims to have personal  
40 knowledge, of any of the transactions, occurrences, violations, or

1 other matters that are the basis of the administrative action. In  
2 addition, the requesting party shall have the right to inspect and  
3 copy any written statement made by that person and any writing,  
4 as defined by Section 250 of the Evidence Code, or thing that is in  
5 the custody, or under the control, of the party receiving the request  
6 and that is relevant and not privileged. This subdivision shall  
7 constitute the exclusive method for prehearing discovery.  
8 However, nothing in this paragraph shall affect the ~~council's~~  
9 *bureau's* authority, at any time, to investigate, inspect, monitor, or  
10 obtain and copy information under any provision of this chapter.

11 (2) The written request described in paragraph (1) shall be  
12 made before the hearing and within 30 days of the service of the  
13 notice described in subdivision (b). Each recipient of a request  
14 shall comply with the request within 15 days of its service by  
15 providing the names and addresses requested and by producing at  
16 a reasonable time at the ~~council's~~ *bureau's* office, or other  
17 mutually agreed reasonable place, the requested writings and  
18 things. The ~~council~~ *bureau* may extend the time for response upon  
19 a showing of good cause.

20 (3) Except as provided in this paragraph, no party may  
21 introduce the testimony or statement of any person or any writing  
22 or thing into evidence at the hearing if that party failed to provide  
23 the name and address of the person or to produce the writing or  
24 thing for inspection and copying as provided by this subdivision.  
25 A party may introduce the testimony, statement, writing, or thing  
26 that was not identified or produced as required herein only if there  
27 is no objection or if the party establishes that the person, writing,  
28 or thing was unknown at the time when the response was made to  
29 the written request, the party could not have informed other parties  
30 within a reasonable time after learning of the existence of the  
31 person, writing, or thing, and no party would be prejudiced by the  
32 introduction of the evidence.

33 (e) Before the hearing has commenced, the ~~council~~ *bureau*  
34 shall issue subpoenas at the written request of any party for the  
35 attendance of witnesses or the production of documents or other  
36 things in the custody or under the control of the person subject to  
37 the subpoena. Subpoenas issued pursuant to this section are subject  
38 to Section 11510 of the Government Code.

39 (f) (1) The ~~council~~ *bureau* shall designate an impartial hearing  
40 officer to conduct the hearing. The hearing officer may administer

1 oaths and affirmations, regulate the course of the hearing, question  
2 witnesses, and otherwise investigate the issues, take official notice  
3 according to the procedure provided in Division 4 (commencing  
4 with Section 450) of the Evidence Code of any technical or  
5 educational matter in the ~~council's~~ *bureau's* special field of  
6 expertise and of any matter that may be judicially noticed, set the  
7 time and place for continued hearings, fix the time for the filing of  
8 briefs and other documents, direct any party to appear and confer  
9 to consider the simplification of issues by consent, and prepare a  
10 statement of decision.

11 (2) Neither a hearing officer nor any person who has a direct or  
12 indirect interest in the outcome of the hearing shall communicate  
13 directly or indirectly with each other regarding any issue involved  
14 in the hearing while the proceeding is pending without notice and  
15 opportunity for all parties to participate in the communication. A  
16 hearing officer who receives any ex parte communication shall  
17 immediately disclose the communication to the ~~council~~ *bureau*  
18 and all other parties. The ~~council~~ *bureau* may disqualify the  
19 hearing officer if necessary to eliminate the effect of the ex parte  
20 communication. If the ~~council~~ *bureau* finds that any party  
21 willfully violated, or caused the violation of, this paragraph, the  
22 ~~council~~ *bureau* shall enter that party's default and impose the  
23 administrative sanction set forth in the notice provided pursuant to  
24 subdivision (b).

25 (g) (1) Each party at the hearing shall be afforded an  
26 opportunity to present evidence, respond to evidence presented by  
27 other parties, cross-examine, and present written argument or, if  
28 permitted by the hearing officer, oral argument on the issues  
29 involved in the hearing. The ~~council~~ *bureau* may call any party as  
30 a witness who may be examined as if under cross-examination.

31 (2) Each party may appear through its representative or  
32 through legal counsel.

33 (3) The technical rules relating to evidence and witnesses shall  
34 not apply. However, only relevant evidence is admissible.

35 (4) Oral evidence shall be taken only upon oath or affirmation.  
36 The hearing shall be conducted in the English language. The  
37 proponent of any testimony to be offered by a witness who is not  
38 proficient in English shall provide, at the proponent's cost, an  
39 interpreter proficient in English and the language in which the  
40 witness will testify.

1 (5) The hearing shall be recorded by tape recording or other  
2 phonographic means unless all parties agree to another method of  
3 recording the proceedings.

4 (6) (A) At any time 10 or more days before the hearing, any  
5 party may serve on the other parties a copy of any declaration that  
6 the party proposes to introduce in evidence.

7 (B) The declaration shall be accompanied by a notice  
8 indicating the date of service of the notice and stating that the  
9 declarations will be offered into evidence, the declarants will not  
10 be called as witnesses, and there will be no right of  
11 cross-examination unless the party receiving the notice requests  
12 the right to cross-examine, in writing, within seven days of the  
13 service of the declarations and notice.

14 (C) If no request for cross-examination is served within seven  
15 days of the service of the declarations and notice described in  
16 subparagraph (B), the right to cross-examination is deemed  
17 waived and the declaration shall have the same effect as if the  
18 declarant testified orally. Notwithstanding this paragraph, a  
19 declaration may be admitted as hearsay evidence without  
20 cross-examination.

21 (7) Disposition of any issues involved in the hearing may be  
22 made by stipulation or settlement.

23 (8) If a party fails to appear at a hearing, that party's default  
24 shall be taken and the party shall be deemed to have waived the  
25 hearing and agreed to the administrative action and the grounds for  
26 that action described in the notice given pursuant to subdivision  
27 (b). The ~~council~~ bureau shall serve the party with an order of  
28 default including the administrative action ordered. The order  
29 shall be effective upon service or at any other time designated by  
30 the ~~council~~ bureau. The ~~council~~ bureau may relieve a party from  
31 an order of default if the party applies for relief within 15 days after  
32 the service of an order of default and establishes good cause for  
33 relief. An application for relief from default shall not stay the  
34 effective date of the order unless expressly provided by the ~~council~~  
35 bureau.

36 (h) (1) At any time before the matter is submitted for decision,  
37 the ~~council~~ bureau may amend the notice provided pursuant to  
38 subdivision (b) to set forth any further grounds for the originally  
39 noticed administrative action or any additional administrative  
40 action and the grounds therefor. The statement of the further

1 grounds for the originally noticed administrative action, or of the  
2 grounds for any additional administrative action, shall be made  
3 with sufficient particularity to give notice of the transactions,  
4 occurrences, violations, or other matters on which the action or  
5 additional action is based. The amended notice shall be served on  
6 all parties. All parties affected by the amended notice shall be  
7 given reasonable opportunity to respond to the amended notice as  
8 provided in this section.

9 (2) The ~~council~~ *bureau* may amend the notice after the case is  
10 submitted for decision. The ~~council~~ *bureau* shall serve each party  
11 with notice of the intended amendment, and shall provide the party  
12 with an opportunity to show that the party will be prejudiced by the  
13 amendment unless the case is reopened to permit the party to  
14 introduce additional evidence. If prejudice is shown, the ~~council~~  
15 *bureau* shall reopen the case to permit the introduction of  
16 additional evidence.

17 (i) (1) Within 30 days after the conclusion of the hearing or at  
18 another time established by the ~~council~~ *bureau*, the hearing officer  
19 shall submit a written statement of decision setting forth a  
20 recommendation for a final decision and explaining the factual and  
21 legal basis for the decision as to each of the grounds for the  
22 administrative action set forth in the notice or amended notice. The  
23 ~~council~~ *bureau* shall serve the hearing officer's statement of  
24 decision on each party and its counsel within 10 days of its  
25 submission by the hearing officer.

26 (2) The ~~council~~ *director* shall make the final decision which  
27 shall be based exclusively on evidence introduced at the hearing.  
28 The final decision shall be supported by substantial evidence in the  
29 record. The ~~council~~ *director* also shall issue a statement of  
30 decision explaining the factual and legal basis for the final decision  
31 as to each of the grounds for the administrative action set forth in  
32 the notice or amended notice. The ~~council~~ *director* shall issue an  
33 order based on its decision which shall be effective upon service  
34 or at any other time designated by the ~~council~~ *director*. The  
35 ~~council~~ *director, or his or her agent*, shall serve a copy of the final  
36 decision and order, within 10 days of their issuance, on each party  
37 and its counsel.

38 ~~(3) The council may hold a closed session to deliberate on a~~  
39 ~~decision to be reached based upon evidence introduced at the~~  
40 ~~hearing.~~



1     ~~(4)~~ The ~~council~~ *bureau* shall serve a certified copy of the  
2 complete record of the hearing, or any part thereof designated by  
3 a party, within 30 days after receiving the party's written request  
4 and payment of the cost of preparing the requested portions of the  
5 record. The complete record shall include all notices and orders  
6 issued by the ~~council~~ *bureau*, a transcript of the hearing, the  
7 exhibits admitted or rejected, the written evidence and any other  
8 papers in the case, the hearing officer's statement of decision, and  
9 the final decision and order.

10     (j) The ~~council~~ *bureau* shall serve all notices and other  
11 documents that are required to be served by this section on each  
12 party by personal delivery, by certified mail, return receipt  
13 requested, or by any other means designated by the ~~council~~  
14 *bureau*.

15     (k) (1) Any party aggrieved by the ~~council's~~ *director's* final  
16 decision and order may seek judicial review by filing a petition for  
17 a writ of mandate pursuant to Section 1085 of the Code of Civil  
18 Procedure within 30 days of the issuance of the final decision and  
19 order. If review is not sought within that period, the party's right  
20 to review shall be deemed waived.

21     (2) The aggrieved party shall present the complete record of the  
22 hearing or all portions of the record necessary for the court's  
23 review of the ~~council's~~ *director's* final decision and order. The  
24 court shall deny the petition for a writ of mandate if the record  
25 submitted by the party is incomplete. The court shall not consider  
26 any matter not contained in the record. The ~~factual basis~~ *director's*  
27 *findings of fact and legal conclusions* supporting the final decision  
28 ~~set forth in the council's statement of decision~~ shall be conclusive  
29 if supported by substantial evidence on the record considered as a  
30 whole.

31     (3) The final order shall not be stayed or enjoined during  
32 review except upon the court's grant of an order on a party's  
33 application after due notice to the ~~council~~ *director* and the  
34 Attorney General. The order shall be granted only if the party  
35 establishes the substantial likelihood that it will prevail on the  
36 merits and posts a bond sufficient to protect fully the interests of  
37 the students, the ~~council~~ *bureau*, and the fund, from any loss.

38     (l) The ~~council~~ *bureau* may adopt regulations establishing  
39 alternative means of providing notice and an opportunity to be



1 heard in circumstances in which a full hearing is not required by  
2 law.

3 (m) For the purposes of this section, “good cause” shall  
4 require sufficient ground or reason for the determination to be  
5 made by the ~~council~~ bureau.

6 SEC. 9. Section 94980 of the Education Code is amended to  
7 read:

8 94980. (a) If the ~~council~~ bureau, through the ~~program~~  
9 ~~administrator~~ director, denies an institution’s application for  
10 approval, grants a conditional approval, or initiates a proceeding  
11 to suspend or revoke an institution’s approval to operate, the  
12 institution may request a hearing pursuant to this section in lieu of  
13 the hearing procedure designated by the ~~council~~ bureau under  
14 Section 94965 or 94975.

15 (b) At the time the ~~council~~ bureau provides notice to an  
16 institution of its right to a hearing under Section 94965 or 94975  
17 in connection with the denial of an application for approval to  
18 operate, the issuance of a conditional approval to operate, or a  
19 proposed suspension or revocation of approval to operate, the  
20 ~~council~~ bureau also shall provide notice of the provisions of this  
21 section.

22 (c) Within 15 days after service of the notice described in  
23 subdivision (b), the institution may request in writing a hearing  
24 under this section in lieu of the hearing procedure in Section 94965  
25 or 94975. The request shall acknowledge that, by electing to  
26 proceed under this section, the institution is knowingly waiving all  
27 rights under the hearing procedure otherwise provided by the  
28 ~~council~~ bureau.

29 (d) After receiving the institution’s request for a hearing under  
30 this section, the ~~council~~ bureau shall provide the institution or its  
31 representative with copies of all the documents, testimony in  
32 declaration form, and written arguments on which the ~~council~~  
33 bureau relies to support its proposed administrative action.

34 (e) The institution shall have 30 days from the service of the  
35 ~~council’s~~ bureau’s written evidence and arguments to submit all  
36 the documents, testimony in declaration form, and written  
37 arguments on which the institution relies in opposition to the  
38 ~~council’s~~ bureau’s proposed administrative action.

1 (f) Neither the ~~council~~ *bureau* nor the institution has any right  
2 to discovery or to compel the production of documents or the  
3 testimony of witnesses by subpoena.

4 (g) The ~~program administrator~~ *director* shall review all of the  
5 documents, declarations, and arguments, and shall render a  
6 proposed decision in writing, based solely on the written evidence  
7 and arguments that set forth the proposed administrative action  
8 and the factual and legal bases for it.

9 ~~(h) Within 10 days of the service of the program~~  
10 ~~administrator's decision, the institution may request in writing to~~  
11 ~~have the matter reviewed by the members of the council and may~~  
12 ~~also request oral argument, as described in subdivision (i). If a~~  
13 ~~timely request for review is not submitted, the program~~  
14 ~~administrator's decision shall be deemed the final decision of the~~  
15 ~~council. If a timely request for review is submitted without a~~  
16 ~~request for oral argument, the right to make oral argument is~~  
17 ~~deemed waived.~~

18 ~~(i) If a timely request for review is made, the matter shall be~~  
19 ~~considered by the members of the council based solely on the~~  
20 ~~written evidence and arguments submitted to the program~~  
21 ~~administrator and, if oral argument was timely requested, any oral~~  
22 ~~argument permitted by the council. No new evidence may be~~  
23 ~~presented during oral argument. An institution requesting oral~~  
24 ~~argument shall receive at least 10 days advance notice of the~~  
25 ~~council meeting at which time oral argument may be made. The~~  
26 ~~council members may deliberate on the decision to be reached in~~  
27 ~~a closed session as provided in paragraph (3) of subdivision (c) of~~  
28 ~~Section 11126 of the Government Code. The council shall issue its~~  
29 ~~final decision within 30 days after the council meeting at which the~~  
30 ~~matter was reviewed. The program administrator's proposed~~  
31 ~~decision shall be sustained if it is supported by substantial evidence~~  
32 ~~on the record considered as a whole.~~

33 ~~(j) The council bureau shall serve the institution with a written~~  
34 ~~decision setting forth the administrative action taken and the legal~~  
35 ~~and factual bases for it. The decision shall become final within 30~~  
36 ~~days unless another time is specified by the council bureau.~~

37 ~~(k)–~~  
38 ~~(i) The council bureau shall serve a certified copy of the~~  
39 ~~complete record, or any part thereof designated by an institution,~~  
40 ~~within 30 days after receiving the institution's written request and~~

1 payment of the cost of preparing the requested record or portions  
2 thereof. The complete record shall consist of all notices and orders  
3 of the ~~council~~ bureau, the documents, declarations, and written  
4 argument submitted, a transcript of any oral argument, and the  
5 final decision and order.

6 ~~(t)–~~

7 (j) Any party aggrieved by the ~~council's~~ bureau's final decision  
8 and order may seek judicial review as provided in, and subject to,  
9 the requirements of subdivision (k) of Section 94975.

10 ~~(m)–~~

11 (k) All documents required by this section to be served by the  
12 ~~council~~ bureau shall be served on the institution, its counsel, or  
13 authorized representative by any means authorized for service  
14 pursuant to Chapter 5 (commencing with Section 1010) of Title 14  
15 of Part 2 of the Code of Civil Procedure.

16 *SEC. 10. Section 94995 of the Education Code is amended to*  
17 *read:*

18 94995. (a) Notwithstanding Section 7550.5 of the  
19 Government Code, on or before January 31 of each calendar year,  
20 the ~~council~~ bureau shall submit a written report to the Legislature  
21 and to the California Postsecondary Education Commission,  
22 summarizing its activities during the previous fiscal year.

23 (b) Annual reports prepared pursuant to this section shall  
24 include, but shall not necessarily be limited to, all of the following:

25 (1) Timely information relating to the enforcement activities of  
26 the ~~council~~ bureau pursuant to this chapter.

27 (2) Statistics providing a composite picture of the private  
28 postsecondary educational community, including data on how  
29 many schools, as classified by subject matter, and how many  
30 students there are within the scope of the activities of the ~~council~~  
31 bureau.

32 (c) Any reports submitted by the ~~council~~ bureau to the Joint  
33 Legislative Sunset Review Committee pursuant to Division 1.2  
34 (commencing with Section 473) of the Business and Professions  
35 Code during any calendar year shall satisfy the reporting  
36 requirements of this section for that year.